

TRANSLATION

## PATENT COOPERATION TREATY

## PCT

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference <b>11365p</b>	<b>FOR FURTHER ACTION</b>	See Form PCT/IPEA/416
International application No. <b>PCT/DE2004/002424</b>	International filing date ( <i>day/month/year</i> ) <b>02.11.2004</b>	Priority date ( <i>day/month/year</i> ) <b>07.11.2003</b>
International Patent Classification (IPC) or national classification and IPC <b>. B65D41/04 B29C43/18 B29C43/14 B29C31/04</b>		
Applicant <b>AMCOR Limited</b>		

1.	This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.	
2.	This REPORT consists of a total of <u><b>11</b></u> sheets, including this cover sheet.	
3.	This report is also accompanied by ANNEXES, comprising: a. <input checked="" type="checkbox"/> ( <i>sent to the applicant and to the International Bureau</i> ) a total of <u><b>6</b></u> sheets, as follows: <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. <input type="checkbox"/> ( <i>sent to the International Bureau only</i> ) a total of (indicate type and number of electronic carrier(s))  _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).	
4.	This report contains indications relating to the following items: <input checked="" type="checkbox"/> Box No. I Basis of the report <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application	

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/DE2004/002424

Box No. I	Basis of the report
1.	<p>With regard to the <b>language</b>, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.</p> <p><input type="checkbox"/> This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:</p> <p><input type="checkbox"/> international search (Rule 12.3 and 23.1(b))</p> <p><input type="checkbox"/> publication of the international application (Rule 12.4)</p> <p><input type="checkbox"/> international preliminary examination (Rule 55.2 and/or 55.3)</p> <p>2. With regard to the <b>elements</b> of the international application, this report is based on (<i>replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report</i>):</p> <p><input type="checkbox"/> the international application as originally filed/furnished</p> <p><input checked="" type="checkbox"/> the description:</p> <p>pages <u>1-31</u> as originally filed/furnished</p> <p>pages* _____ received by this Authority on _____</p> <p>pages* _____ received by this Authority on _____</p> <p><input checked="" type="checkbox"/> the claims:</p> <p>nos. _____ as originally filed/furnished</p> <p>nos.* _____ as amended (together with any statement) under Article 19</p> <p>nos.* <u>1-26</u> received by this Authority on <u>24.08.2005 with letter of 24.08.2005</u></p> <p>nos.* _____ received by this Authority on _____</p> <p><input checked="" type="checkbox"/> the drawings:</p> <p>sheets <u>1/11-11/11</u> as originally filed/furnished</p> <p>sheets* _____ received by this Authority on _____</p> <p>sheets* _____ received by this Authority on _____</p> <p><input type="checkbox"/> a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.</p>
3.	<p><input type="checkbox"/> The amendments have resulted in the cancellation of:</p> <p><input type="checkbox"/> the description, pages _____</p> <p><input type="checkbox"/> the claims, nos. _____</p> <p><input type="checkbox"/> the drawings, sheets/figs _____</p> <p><input type="checkbox"/> the sequence listing (<i>specify</i>): _____</p> <p><input type="checkbox"/> any table(s) related to sequence listing (<i>specify</i>): _____</p>
4.	<p><input type="checkbox"/> This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).</p> <p><input type="checkbox"/> the description, pages _____</p> <p><input type="checkbox"/> the claims, nos. _____</p> <p><input type="checkbox"/> the drawings, sheets/figs _____</p> <p><input type="checkbox"/> the sequence listing (<i>specify</i>): _____</p> <p><input type="checkbox"/> any table(s) related to sequence listing (<i>specify</i>): _____</p>

\* If item 4 applies, some or all of those sheets may be marked "superseded."

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/DE2004/002424

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement																					
1. Statement	<table><tbody><tr><td rowspan="2">Novelty (N)</td><td>Claims</td><td></td><td>YES</td></tr><tr><td>Claims</td><td>1, 14, 20, 26</td><td>NO</td></tr><tr><td rowspan="2">Inventive step (IS)</td><td>Claims</td><td></td><td>YES</td></tr><tr><td>Claims</td><td>2-13, 16-19, 21-23</td><td>NO</td></tr><tr><td rowspan="2">Industrial applicability (IA)</td><td>Claims</td><td>1-26</td><td>YES</td></tr><tr><td>Claims</td><td></td><td>NO</td></tr></tbody></table>	Novelty (N)	Claims		YES	Claims	1, 14, 20, 26	NO	Inventive step (IS)	Claims		YES	Claims	2-13, 16-19, 21-23	NO	Industrial applicability (IA)	Claims	1-26	YES	Claims		NO
Novelty (N)	Claims			YES																		
	Claims	1, 14, 20, 26	NO																			
Inventive step (IS)	Claims		YES																			
	Claims	2-13, 16-19, 21-23	NO																			
Industrial applicability (IA)	Claims	1-26	YES																			
	Claims		NO																			
2. Citations and explanations (Rule 70.7)	<p>1. Reference is made to the following documents:</p> <p>D1 US-A-3 325 035</p> <p>D2 US-A-6 142 325</p> <p>D3 US-A-4 021 524</p> <p><b>Claim 1</b></p> <p>2. D1 discloses (see column 4, line 41 to column 6, line 22 and the drawings) a:</p> <p>a) method for forming a sealing and occluding zone which is provided with a compound in a cap 80 with an inner panel made of a metallic material (see "steel blank 80"), wherein</p> <p>b) two different methods for applying two compound layers are successively used (see figures 5 and 6: "spray nozzle 83" and "dispenser 24"),</p> <p>c) for applying a first compound 92 using the first method and for applying a second compound 90 using the second method,</p> <p>d) the compounds 92, 90 being different (see "foamed polyvinylchloride 90" and "non-</p>																					

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
	<p>foaming plastisol 92"),</p> <p>e) the two compound layers 92, 90 extending in different geometrical areas of the cap 80 in the edge section thereof with sealing and occluding zones (see figures 1 to 4).</p> <p>3. The method as per claim 1 thus lacks novelty (PCT Article 33(2)).</p> <p>4. D2 also discloses a method involving the essential aspects of features a) to d) specified above (see column 3, line 23 to column 4, line 34; column 6, lines 41 to 57 and the drawings).</p> <p><b>Independent product claims 14, 26</b></p> <p>5. The same objections as those raised against claim 1 apply.</p> <p><b>Claims 2 to 13 and 16 to 19</b></p> <p>6. The features of these claims add nothing inventive, since they contain purely structural details which are already known fully or in part from the prior art or fall under that which a person skilled in the art routinely does on the basis of familiar considerations.</p> <p><b>Independent device claim 20</b></p> <p>7. D3 (see column 3, line 44 to column 3, line 29 and figures 1 to 4) discloses:</p>

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
	<p>a) an annular punch 14 for shaping and displacing a compound pre-form in a substantially cylindrical compound layer 16 of an occluding zone 19 of a cap 20 in the edge area thereof (see figure 1), wherein</p> <p>b) the compound pre-form is shaped essentially only in the axial direction as a compound which is applied to the periphery of an apron area of the cap 20 (see figure 2), wherein</p> <p>d) the annular punch 14 has a trunk section and connected thereto an end section, the end section being narrower than the trunk section (see figure 2: gradual tapering of 14), wherein</p> <p>e) the annular punch 14 has a radially outer, axially extending recess for receiving and changing the position and shape of the pre-form of the applied compound in the apron area of the cap 20 (see figures 2 and 4: uppermost tapered step of 14), and wherein</p> <p>f) the end section forms a blocking element which prevents the compound pre-form from flowing radially inwards over a radially inner end of the end section during the change (see figure 2, the upper section of the punch 14 works with the upper part 21 of the cap 20 to prevent the material 16 from flowing radially inwards).</p>
8.	The subject matter of claim 20 thus lacks novelty (PCT Article 33(2)).

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
	<p><b>Claims 21 to 23</b></p> <p>9. The features of these claims add nothing inventive, since they contain purely structural details which are already known fully or in part from the prior art or fall under that which a person skilled in the art routinely does on the basis of familiar considerations.</p> <p>10. Claims 1 to 26 meet the requirements of PCT Article 33(4) with respect to industrial applicability.</p> <p><b>Clarity</b></p> <p>11. Claims 14 and 26 were drafted as separate, independent product claims. However, they actually appear to refer to one and the same subject matter and clearly differ only in that they give different definitions of the subject matter for which protection is sought. The claims are therefore not concise. For this reason claims 14 and 26 do not meet the requirements of PCT Article 6.</p> <p>12. The terms "Area2", "Area3", "moulding method", "moulding compound method" and "moulded compound" in the claims and the description have no generally recognised meaning and leave the reader uncertain as to the meaning of the technical features in question. As a result, the subject matter is not clearly defined (PCT Article 6).</p>

Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement**Claim 1**

13. Claim 1, as currently worded, does not meet the requirement for clarity (PCT Article 6), since the feature "two different application methods" is not clear. Figures 6a and 6b show that what happens is a compression moulding of "compound A" using punch 50 and a compression moulding of "compound B" using punch 40, i.e. two of the same compression moulding method or two of the same shaping method. The term "application method" is not used correctly. It is not clear how the "formation of sealing and occluding zones" can be achieved merely by applying sealing compounds A and B, that is without a shaping method.
14. Claim 1, as currently worded, does not meet the requirement for clarity (PCT Article 6), since the feature whereby "the two compound layers (A, B) extend in different geometrical areas (Area2, Area3) of the cap in the edge area (R) thereof with sealing and occluding zones (10D, 10V)" is not clear. In order to obtain a continuous seal, it appears essential for the two compound layers to extend in "adjacent" areas.
15. Claim 1 does not clearly define the term "edge area". According to claim 1, the term "edge area" covers the zones described as "Area 2" and "Area 3" or 10D and 10V, that is the area radially outside a covering reflector or panel; see also

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
	<p>page 1, line 21 of the description. According to claim 14, however, the term "edge area" covers only the occluding region 10V (see claim 14, line 16).</p> <p><b>Claim 2</b></p> <p>16. Claim 2, as currently worded, does not meet the requirement for clarity (PCT Article 6), since it is not specified how the "formation of a sealing and occluding zone" can be achieved by rotation. The application method involving injection followed by rotation of the cap is aimed at positioning "compound A" in the cap, not at shaping. The claimed "formation of a sealing and occluding zone", that is the compression moulding of "compound A", as specified in the description, cannot be achieved by rotation of the cover, since compound A would be pressed by the rotation against apron 4.</p> <p><b>Claims 6 to 9 and 24, 25</b></p> <p>17. The features in method claims 6 to 9 and 24 to 26 relate to a cap, rather than providing clear delimitations for the method itself.</p> <p>18. It is not clear from claims 6 to 9 how a groove or a combined groove 22, 20a, 20 can be produced directly under the cap 1.</p>



Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
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**Product claims 14 to 19 and 26**

19. The embodiments as per figures 5a to 12b are not covered by the scope of protection of claim 14, since they do not show a peripheral groove.

20. In contrast to the embodiments in claims 14 to 19 and 26, the reference signs 20 and 21 do not appear to depict a peripheral channel in the drawings. In addition, feature a) in claim 14 is unclear, since no overlap of layers A and B in a groove is visible in the drawings.

**Independent product claim 26**

21. Claim 26, as currently worded, does not meet the requirement for clarity (PCT Article 6), since it does not disclose the feature of "two layers of compound", which is indicated in the description (see page 2, lines 36 and 37) as being essential.

22. Since independent claim 26 does not disclose this feature, it does not meet the requirement of PCT Article 6 in conjunction with PCT Rule 6.3(b) that each independent claim must include all the technical features essential to the definition of the invention.

**Device claims 20 to 23**

23. Claim 20, as currently worded, does not meet the requirement of PCT Article 6, since it is missing

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
	<p>features that are essential for defining the invention (see page 2, lines 36 and 37, "two layers of compound").</p>
24.	<p>Claim 20, as currently worded, does not meet the requirement of PCT Article 6, since feature (iii) is unclear. Structural features relating to the front section which acts as a "block" and which define the interaction between that section and the cover or a countermould in order to achieve the desired effect (blocking) are missing.</p>
25.	<p>Claim 20, as currently worded, does not meet the requirement of PCT Article 6, since the wording "shaping and displacing" is not clear.</p>
	<p><b>Same terminology</b></p>
26.	<p>Claims 1 to 26, as currently worded, also do not meet the requirement of PCT Article 6, since they do not use the same terminology:</p> <ul style="list-style-type: none"><li>- the edge area is defined differently, in claim 1: "edge area (R)" = "sealing and occluding zones (10; 10V, 10D)" = "geometrical areas (Area 2, Area 3)",</li><li>- the occluding area is defined differently, in claim 1: "Area 3", "occluding zone 10V", in claim 7: "apron 4",</li><li>- the sealing area is defined differently, in claim 1: "sealing zone (10V)", in claim 7: "edge (3a)".</li></ul>

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<p><b>Additional points</b></p> <p>27. Contrary to PCT Rule 5.1(a)(ii), the description does not cite documents D1-D3 or indicate the relevant prior art disclosed therein.</p> <p>28. Contrary to PCT Rule 6.3(b), claims 1, 14, 20 and 26 are not drafted in the two-part form.</p>	